

**City Of Martinsburg  
Regular Council Meeting  
May 9, 2013  
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor George Karos at 6:30 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Kevin Knowles, Jason Baker, Gregg Wachtel, and Roger Lewis. Not present was Max Parkinson. Also present were: Mark Baldwin, City Manager, Kin Sayre, Legal Counsel, Gena Long, City Recorder, Chief Paul Bragg, Martinsburg Fire Department, Captain George Swartwood, Martinsburg Police Department, Steve Knipe, Utilities Director, Michael Covell, City Engineer/Planning Director, Patricia McMillan, Community Development Director, and Mark Spickler, Finance Director.

Mayor Karos announced that he will be adding item 12N.

**3. Salute to Flag**

Councilman Knowles led the Salute to the Flag.

**4. Prayer—Pastor Al Clipp, Calvary United Methodist Church**

Reverend Burton led the invocation.

**5. Approve April 11, 2013 Regular Council Meeting Minutes**

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the April 11, 2013 Regular Council meeting minutes. Motion carried unanimously.

**6. Approve April 16, 2013 Special Council Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve the April 11, 2013 Special Council Meeting Minutes. Motion carried unanimously.

**7. Approve March 2013 Administrative and Financial Report.**

Motion made by Councilman Baker, seconded by Councilmen Etherington, to approve the March 2013 Administrative and Financial Report. Motion carried unanimously.

**8. Presentations**

**a. Proclamation—Heritage Day—May 11, 2013**

Mayor Karos read the Proclamation which was presented to the recipients.

**b. Martinsburg/Berkley County Convention and Visitors' Bureau Update—Laura Gassler, Director.**

Ms. Laura Gassler, Director, Martinsburg/Berkeley County Convention and Visitors' Bureau (CVB) gave an update on the progress being made by the CVB in promoting tourism in the Eastern Panhandle. Ms. Gassler stated that since her directorship began in December 2012, she has increased printed material, undertaken hotel site visits, attended several tourism meetings and other initiatives. She stated that she has been in contact with the Tough Mudder organizers and the Eastern Panhandle will be hosting another event in October. Ms. Gassler also discussed upcoming initiatives, such as a geocaching event, a museum day across the Eastern Panhandle and possible including Martinsburg as a stop for bus tours.

Mayor Karos expressed concern about the strain on emergency services and first responders by holding the Tough Mudder and the Apple Harvest Festival on the same dates. Ms. Gassler stated that this is also a concern with the County Council and Administrator Deborah Hammond and a meeting is to take place the following week with those officials and the Tough Mudder organizers.

**9. Petitions From Citizens**

Mr. Kim Reid thanked Council for their support of the *for the kids* by George Children's Museum, which has a ribbon cutting scheduled for Saturday, May 11, 2013. He particularly thanked City Manager Mark Baldwin and Finance Director Mark Spickler for their hard work in the financial aspect of the project.

**10. Receive and File Reports—Minutes—Correspondence of the Following:**

- a. Proclamation—Paint the Town Purple Week-read on May 6, 2013
- b. Auction report for April 13, 2013 surplus auction
- c. Eastern Panhandle Transit Authority Budget Committee Meeting Minutes
- d. Planning Commission February 06, 2013 Meeting Minutes
- e. Martinsburg/Berkeley County Convention and Visitors Bureau January 11, 2013 and February 13, 2013 Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington to receive and file item 10 a-e. Motion carried unanimously.

**11. Reports of Chairpersons of Council Standing Committees**

- a. Council as a Whole Committee April 29, 2013 meeting minutes.

Motion made by Councilman Baker, seconded by Councilman Anderson, to approve the Council as a Whole April 29, 2013 Meeting Minutes. Motion carried unanimously.

**Council as a Whole Committee Minutes  
Monday, April 2013  
5:00 PM**

**Present-** Mayor George Karos, Dennis Etherington, Kevin Knowles, Jason Baker, Roger Lewis, Don Anderson, Gregg Wachtel, Max Parkinson

**Others in Attendance:** Mark Baldwin, City Manager, Mark B. Spickler, Finance Director, Pat McMillan, Community Development Director, Chief of Police Kevin E. Miller, Deputy Chief Tim Catlett and Kin Sayre, City Attorney

**Unable to Attend:**

Mayor Karos opened the meeting and explained the purpose of the meeting was for those in attendance to discuss the following:

**a. Discuss proposed water and sewer rates**—City Manager explained the purpose for the water and sewer rates. The water rate increase is proposed in order to have adequate bond coverage for the previous water projects and the sewer increase was due to the requirement to meet new standards for the Chesapeake Bay, which is the construction of a new \$49 million wastewater treatment plant.

Finance Director Mark Spickler provided an overview of what the current water and sewer rates are and what the recommended water and sewer rates are.

After questions were answered and comments were made, the Committee consensus was in favor of recommending the water and sewer rate ordinances be placed on the May 9, 2013 City Council agenda for the 1<sup>st</sup> and 2<sup>nd</sup> reading.

**b. Discuss CDBG/HOME Programs** and proposed structure, changing the Community Development Director from a full-time City position to a part-time Contractual position.

City Manager, Finance Director and Pat McMillan provided an overview of the current CDBG and HUD programs, funds and future projections. Staff recommended the change in the Community Development Director position from a full-time City employee to a part-time contractual position. It was further stated that the position would be 24 hours per week in the office at \$32,000 per year. Once the position would be advertised, the City Attorney would prepare the contractual agreement for City Council to approve.

After questions were answered and comments were made, the Committee consensus was in favor of the proposal and recommended to place this item on the May 9, 2013 City Council agenda.

**c. Discuss restructuring City Magistrates** to allow for: one (1) full-time magistrate and two (2) part-time magistrates. Presently there are three (3) part-time magistrates.

City Manager, Finance Director, Chief of Police Kevin Miller and Deputy Chief Tim Catlett provided an overview of the current staffing for magistrates and recommended the City move from three (3) part-time magistrates to one (1) full-time magistrate and two (2) part-time magistrates. Cost overview was discussed indicating a small savings could be realized as well as providing better customer service to the public and streamlining the court system in City Hall.

After questions were answered and comments were made, the Committee consensus was in favor of the proposal and recommended to place this item on the May 9, 2013 City Council agenda.

**d. Home Rule Legislation Overview**—Mayor Karos, City Manager and Attorney Kin Sayre provided an overview of the recently passed Home Rule legislation. City Attorney Kin Sayre explained the gun control language within the legislation.

Mayor Karos stated the Committee should consider if application should be made to become a Home Rule Pilot City.

After discussion, Committee consensus was in favor of placing this item on the May 9, 2013 City Council agenda.

**b. City Property Committee April 29, 2013 Meeting Minutes**

Motion made by Councilman Lewis, seconded by Councilman Etherington, to approve the City Property Committee April 29, 2013 Meeting Minutes. Motion carried unanimously.

**City Property Committee Meeting Minutes**

**Monday, April 29, 2013**

**Approximately 6:00 PM (immediately following Council as a Whole Committee Meeting)**

**Present:** Roger Lewis, Chairman, Dennis J. Etherington, Jason W. Baker, Max Parkinson and Kevin Knowles.

**Unable to Attend:**

**Others Present:** Mayor George Karos, Councilmembers Don Anderson and Gregg Wachtel, Mark S. Baldwin, City Manager, Kin Sayre, City Attorney

Chairman Roger Lewis opened the meeting and explained the purpose for the meeting was for the City Property Committee to discuss the following:

**A. Town Square**

Councilman Lewis commented the meeting would entail a discussion on the various requests to use the Town Square. He further stated that the committee could consider approving or denying the various requests as proposed. He then introduced Matthew Grove of Grove & Dall'Olio Architects.

Mr. Grove provided an overview of the design of the pedestal at the Town Square. He further explained the weight the pedestal could hold and questioned some of the uses recommended due to their configuration and unknown wind resistance.

Councilman Lewis provided an overview of the requests to date:

1. Adam Stephen Statue—stated this was the initial proposal for the pedestal, which Council placed on hold due to the cost of the statue.
2. Doughboy Monument—stated the Doughboy was owned by the Arts Centre, which is in the property deed.
3. Town Clock—stated there has been suggestion made for a town clock.
4. Art Berkeley's request to place a sculpture on the pedestal as well as utilize the fountain for "Pennies for the Arts." Councilman Lewis stated the fountain should remain free of items in order to allow the fountain to operate properly.

Councilman Knowles requested more information on the placement of the town clock on the pedestal.

David Heatwole provided an overview of his request and added an additional request of utilizing art donated by Vincent Groh.

Councilman Baker had various questions for Mr. Heatwole regarding funding for his suggestion as well as the time frame and maintenance of the sculpture.

Sandra Riggelman stated she thought the Adam Stephen Statue was a good idea for the pedestal and provided an overview of Adam Stephen's background.

Councilman Knowles asked Matthew Grove if a town clock would be suitable for the pedestal. Matthew Grove stated that it was a possibility and further stated there is actually "town clock sculpture art" available for review. Councilman Knowles requested more information from Mr. Grove on "town clock sculpture art."

Councilman Lewis asked if there was a consensus of the Committee to recommend anything to City Council or to just leave the pedestal as it is.

Mr. Heatwole stated he has a proposal from an out of town artist to utilize his art on the pedestal and it has been two months with no decision regarding his offer. He further stated this was disrespectful of the City.

Consensus of the Committee was to take no action on the items on the agenda, but continue to evaluate the various requests.

## **12. Report of Mayor**

### **a. Reappoint Craig Shanholtzer to the Parking Authority, term 6/30/13-6/30/16**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to reappoint Craig Shanholtzer to the Parking Authority, term 6/30/13-6/30/16. Motion carried unanimously.

### **b. Reappoint Randy Lewis to the Parking Authority, term 6/30/13-6/30/16**

Motion made by Councilman Etherington, seconded by Councilman Anderson, to reappoint Randy Lewis to the Parking Authority, term 6/30/13-6/30/16. Motion carried unanimously.

### **c. Reappoint Mary Crawford to the HOME Consortium Council, term 7/1/2013-6/30/2016**

Motion made by Councilman Lewis, seconded by Councilman Baker, to reappoint Mary Crawford to the HOME Consortium Council, term 7/1/2013-6/30/2016. Motion carried 5-1, Knowles, no.

### **d. Reappoint Gregory Janes to the HOME Consortium Council, term 7/1/2013-6/30/2016**

Motion made by Councilman Etherington, seconded by Councilman Anderson, to reappoint Gregory Janes to the HOME Consortium Council, term 7/1/2013-6/30/2016. Motion carried unanimously.

### **e. Reappoint Natalie Hoffmann to the HOME Consortium Council, term 7/1/2013-6/30/2016**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to reappoint Natalie Hoffmann to the HOME Consortium Council, term 7/1/2013-6/30/2016. Motion carried 4-2, Baker and Knowles, no.

### **f. Reappoint Carol Goolsby to the HOME Consortium Council, At-Large Member, term 7/1/2013-6/30/2016**

Motion made by Councilman Wachtel, seconded by Councilman Anderson, to reappoint Carol Goolsby to the HOME Consortium Council, at-large member—term 7/1/2013-6/30/2016. Motion carried 5-1, Knowles, no.

### **g. Reminder of May 11, 2013 Special Police Levy Election**

Mayor Karos reminded Council of the May 11, 2013 Special Police Levy Election.

### **h. Reminder of Heritage Day, Saturday, May 11, 2013**

Mayor Karos reminded Council of Heritage Day, Saturday, May 11, 2013.

**i. Schedule Special Council Meeting for Friday, May 17, 2013 at 5:00 PM to canvass and declare the results of the May 11, 2013 Special Police Levy Election**

Mayor Karos scheduled a Special Council Meeting for Friday, May 17, 2013 at 5:00 PM to canvass and declare the results of the May 11, 2013 Special Police Levy Election.

City Manager Mark Baldwin stated that this date and time is set forth by State Code.

**j. Schedule Special Council Meeting for Tuesday, May 21, 2013 at 5:00 PM to certify the results of the May 11, 2013 Special Police Levy Election and other business as needed**

Mayor Karos scheduled a Special Council Meeting For Tuesday, May 21, 2013 at 5:00 PM to certify the results of the May 11, 2013 Special Police Levy Election and other business as needed.

**k. Reminder of "Take Pride in your Community" Spring Clean-up event to take place on Saturday, May 18, 2013 from 7:00 AM- 1:00 PM.**

Mayor Karos reminded Council of the "Take Pride in your Community" Spring Clean-up event to take place on Saturday, May 18, 2013 from 7:00 AM until 1:00 PM.

**l. Reminder of the following vacancies: Shade Tree Commission (1), Code Appeals Board (1), Parking Authority (1), Convention and Visitors' Bureau (1) and Planning Commission (1).**

Mayor Karos reminded Council of the vacancies above. City Manager Mark Baldwin added that some letters of interest have been received for some of the vacancies, and asked Council to put forth any more names of interested parties so a decision can be reached.

**m. Appoint the following to the Engineering Interview Committee for the Pre-Development Project—Church Street Area Stormwater Project (CDBG)**

- Mayor George Karos
- City Council
- Mark S. Baldwin, City Manager
- Mike Covell, City Engineer/Planning Director
- Jeff Wilkerson, Public Works Director

Mayor Karos appointed the above to the Engineering Interview Committee for the Pre-Development Project—Church Street Area Stormwater Project (CDBG).

**n. Schedule Special Council Meeting for Thursday, May 23, 2013 at 6:30 PM for purposes of holding public hearing and the third and final reading of Ordinance 2013-03 (sewer rate ordinance) and other business as needed.**

Mayor Karos scheduled a Special Council Meeting for Thursday, May 23, 2013 at 6:30 PM for purposes of holding at public hearing and the third and final reading of Ordinance 2013-03 (sewer rate ordinance) and other business as needed.

**13. Report of City Attorney**

There was no report of the City Attorney.

**14. Report of City Manager**

**a. Projects Update**

City Manager Mark Baldwin had nothing further to add.

**15. Unfinished Business**

There was no unfinished business scheduled.

**16. New Business**

**a. First and Second Reading of Ordinance 2013-03: *An Ordinance Setting Forth Sewer Rates, Minimum Charge, Disconnect/Reconnect/Administrative Charges, Service Connection Charge, Delayed Payment Penalty and Capital Improvement Fees for the City of Martinsburg, West Virginia***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2013-03. Motion carried 4-2, Baker and Anderson, no.

**b. First and Second Reading of Ordinance 2013-04: *An Ordinance To Amend The City Of Martinsburg Zoning Map To Rezone An Improved Parcel Of Real Estate, Consisting Of Approximately 35.94 Acres, Also Identified On The Berkeley County, West Virginia Tax Map M4E Parcel 1, Postal Address 2500 Hospital Drive, Located In The Martinsburg District, Berkeley County, West Virginia, Owned By City Hospital Foundation From Its Current Zoning Classification Of RUB (Urban Residential Class B) To BC (Community Business)***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the first and second reading of Ordinance 2013-04. Motion carried unanimously.

**c. Approve/deny Resolution 2013-04: *A Resolution Authorizing George Karos, Mayor to Sign an Application for a Matching Fund Grant for Litter Control—Total budget \$5,900, Grant Match--\$2,500, City Portion--\$3,400***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2013-04. Motion carried unanimously.

**d. Approve/deny Resolution 2013-05: *Resolution of the Council of the City of Martinsburg approving the FY 2013 CDBG and HOME Annual Action Plan.***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2013-05. Motion carried unanimously.

**e. Approve/deny Resolution 2013:06: *A Resolution Donating Equipment to the Martinsburg/Berkeley County Parks and Recreation Board***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2013-06. Motion carried 5-1, Anderson, no. Councilman Anderson added that he was voting no as the Martinsburg/Berkeley County Parks and Recreation Board, serving as a governmental entity within the City, was unwilling to negotiate on providing fireworks for the July 4, 2013 celebration.

Councilman Baker asked why there is a clause for a \$1 buyback option in the Resolution. Legal Counsel replied that the equipment does have value, even though it has been declared surplus property by the City.

**f. Approve/deny art piece for Caperton Train Station—see attached letter**

Motion made Councilman Lewis, seconded by Councilman Baker, to approve the art piece for the Caperton Train Station, per attached letter. Motion carried unanimously.

Councilman Lewis added that Mr. Lee Badger, artist, should be officially thanked by the City for his donation.

**g. Approve/deny consulting services proposal for Strategic Economic Development Plan—Garner Economics-\$94,500 plus reimbursable expenses not to exceed \$5,000**

Motion made by Councilman Lewis, seconded by Councilman Baker, to approve consulting services for Strategic Economic Development Plan with Garner Economics. Motion carried unanimously.

Councilman Baker added that he is glad to see this proceeding; it is a huge step toward the economic development for the City of Martinsburg.

**h. Approve/deny changing Community Development Director from full-time City position to a part-time contractual position**

Motion made by Councilman Etherington, seconded by Councilman Anderson, to approve changing the Community Development Director from a full-time City position to a part-time contractual position. Motion carried 4-2, Knowles and Baker, no.

**i. Authorize City Manager to solicit information from the governing body and City staff for possible participation in the Municipal Home Rule Pilot Program**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to authorize the City Manager to solicit information from the governing body and City staff for possible participation in the Municipal Home Rule Pilot Program. Motion carried unanimously.

**j. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Berkeley County, WV for fire, emergency medical services, specialized rescues and disasters**

Motion made by Councilman Wachtel, seconded by Councilman Anderson, to approve the Mutual Aid Agreement between the City of Martinsburg and Berkeley County, WV for fire, emergency medical services, specialized rescues and disasters. Motion carried unanimously.

**k. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Jefferson County, WV for fire, emergency medical services, specialized rescues and disasters**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the Mutual Aid Agreement between the City of Martinsburg and Jefferson County, WV for fire, emergency medical services, specialized rescues and disasters. Motion carried unanimously.

**l. Approve/deny Agreement between City of Martinsburg and CoxHollidaPrice, LLP for accounting services in relation to Waste Water Treatment Plant Upgrade Project (not to exceed \$10,100) and to provide coverage letters in regards to the City of Martinsburg Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (not to exceed \$2,900)**

Motion made by Councilman Knowles, seconded by Councilman Etherington to approve Agreement between City of Martinsburg and CoxHollidaPrice, LLP for accounting services in relation to Waste Water Treatment Plant Upgrade Project (not to exceed \$10,100) and to provide coverage letters in regards to the City of Martinsburg Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (not to exceed \$2,900). Motion carried 5-1, Anderson, no.

**m. Approve/deny Agreement between the City of Martinsburg and Bowles Rice LLP, to act as bond counsel for City of Martinsburg Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (West Virginia SRF Program)—not to exceed \$65,000**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Agreement between the City of Martinsburg and Bowles Rice LLP, to act as bond counsel for City of Martinsburg Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (West Virginia SRF Program)—not to exceed \$65,000. Motion carried 5-1, Anderson, no.



**18. Executive Session**

Motion made by Councilman Etherington, seconded by Councilman Wachtel to enter Executive Session for legal matters at 7:08 PM. Motion carried unanimously.

**Adjournment**

Meeting was adjourned by unanimous consent at 7:14 PM.

A handwritten signature in blue ink, appearing to read "Gena Long", written over a horizontal line.

Gena Long, City Recorder

A handwritten signature in blue ink, appearing to read "George Karos", written over a horizontal line.

George Karos, Mayor